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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,860	10/11/2000	Flavio Borgna	194112US6PCT	5550
22850	7590	02/25/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			HANSEN, JAMES ORVILLE	
			ART UNIT	PAPER NUMBER

3637

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/600,860

Applicant(s)

BORGNA, FLAVIO

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-38, 40-43, 45, 49, 50 and 55-58 is/are pending in the application.
- 4a) Of the above claim(s) 55-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-38, 40-43, 45, 49-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Newly submitted claims 55-58 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims previously examiner were all directed towards "A shelf". New claims are directed towards the combination of "A refrigerated installation equipped with at least a refrigerator shelf".

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 55-58 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 32-33, 35, 40-43 & 45/32 are rejected under 35 U.S.C. 102(b) as being anticipated by Santo [French publication 2,720,145]. Santo (figures 1-8) teaches of a shelf (1) used in a refrigerator, the shelf comprising: at least one support panel (8) formed of at least one sheet of glass, the panel having a plurality of corners and a face (either side of 8 as depicted in fig. 1) configured to support items; and a plurality of cornerpieces / coverpieces (1), at least one coverpiece covering one of the plurality of corners of the support panel, each positioned to cover one of the plurality of corners of

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the support panel, wherein at least one of the plurality of coverpieces is attached to the panel via at least one internal relief (5) provided on the at least one of the plurality of coverpieces, thereby allowing the at least one coverpiece to be anchored in at least one groove (7) made on the support panel. The cornerpieces being made of a plastic material. At least one coverpiece covering a side of the panel in full (partially depicted in fig. 2). As to claim 40, at least one of the plurality of cornerpieces / coverpieces includes at least an assembling means (12 for example) that is capable of assembling with an item of furniture. As to claim 41, at least one of the plurality of cornerpieces / coverpieces includes at least one stiffening fin (21 for example). As to claim 42, at least one of the plurality of cornerpieces / coverpieces includes at least one rim (viewed as the edge protruding above the support panel when a coverpiece is attached - note figs. 1-2 e.g.,) configured to prevent liquids from running off the shelf. As to claim 43, at least one of the plurality of cornerpiece / coverpieces includes at least one backrest (can be viewed as the flat portion of the rear coverpiece - lower (1) as depicted in fig. 2 for example). As to claim 45, at least one of the plurality of cornerpieces / coverpieces includes an attaching means (bore or aperture e.g., that accepts element 12) capable of attaching at least one additional element.

4. Claims 32, 35-36, 40, 42 & 45/32 are rejected under 35 U.S.C. 102(b) as being anticipated by Marx [U.S. Patent No. 3,425,147]. Marx (figures 1-6) teaches of a "refrigerator shelf" (see fig. 4 - it is noted, that use of the phrase 'refrigerator shelf' does not denote a specified meaning other than a horizontal surface that can be used in a refrigerator to support items, unless the limitation is supported with structural details i.e., how the "shelf" is connected to or interacts with the medium with which it is located; as such, the examiner will maintain the reasonable broad interpretation

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that the structurally similar device of the prior art can be employed as claimed - [the prior art's structure could be placed on a shelf in a refrigerator and still serve as a glass shelf support surface]) that is capable of supporting items in a refrigerator, the shelf comprising at least one support panel (11) formed of at least one sheet of glass, the panel having a plurality of corners and a face (top side of 11 as depicted in fig. 2) configured to support items; and a plurality of cornerpieces / coverpieces (14, 15), at least one coverpiece covering one of the plurality of corners of the support panel, wherein at least one of the plurality of coverpieces is attached to the panel via at least one internal relief (16) provided on the at least one of the plurality of coverpieces, thereby allowing the at least one coverpiece to be anchored in at least one groove (13) made on the support panel. The cornerpieces being made of a metal material. At least one coverpiece covering a side of the panel in full (note the 15's). The coverpieces when attached to the panel cover the entire periphery of the panel. As to claim 40, at least one of the plurality of cornerpieces / coverpieces includes at least an assembling means (17 for example) that is capable of assembling with an item of furniture. As to claim 42, at least one of the plurality of cornerpieces / coverpieces includes at least one rim (viewed as the edge protruding above the support panel when a coverpiece is attached - note fig. 2 e.g.,) configured to prevent liquids from running off the shelf. As to claim 45, at least one of the plurality of cornerpieces / coverpieces includes an attaching means (17 for example) capable of attaching at least one additional element.

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 29-38, 40-43, 45/29-31 & 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bickford [U.S. Patent No 4,117,614] in view of Marx [U.S. Patent No. 3,425,147]. Bickford (figures 1-7) teaches of a "refrigerator shelf" (see fig. 2 - it is noted, that use of the phrase 'refrigerator shelf' does not denote a specified meaning other than a horizontal surface that can be used in a refrigerator to support items, unless the limitation is supported with structural details i.e., how the "shelf" is connected to or interacts with the medium with which it is located, the examiner will maintain the reasonable broad interpretation that the structurally similar device of the prior art can be employed as claimed - [the prior's art structure could be placed on a shelf in a refrigerator and still serve as a glass shelf support surface]) that is capable of supporting items in a refrigerator, the shelf comprising: at least one support panel (13) inherently formed of at least one sheet of glass or plastic [the panel is defined as being transparent - also note the cross-hatching as depicted in figs. 3-4], the panel having a plurality of corners and a face (upper surface of 13 as depicted in fig. 2) configured to support items; and a plurality of cornerpieces / coverpieces (11, 12) each positioned to cover one of the plurality of corners of the support panel and a part of one side of the panel, wherein the plurality of cornerpieces / coverpieces cover the entire periphery of the support panel when assembled and at least one of the plurality of coverpieces is adapted to slide in another one of the plurality of coverpieces so as to form a telescopic

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set of coverpieces. As to claim 33, the plurality of cornerpieces / coverpieces comprise plastic as evident in the cross-hatching [depicted in fig. 3 for example]. As to claim 40, at least one of the plurality of cornerpieces / coverpieces includes at least an assembling means (56 for example) that is capable of assembling with an item of furniture. As to claim 41, at least one of the plurality of cornerpieces / coverpieces includes at least one stiffening fin (32 for example). As to claim 42, at least one of the plurality of cornerpieces / coverpieces includes at least one rim (34 for example) configured to prevent liquids from running off the shelf (as depicted in figs. 2-3). As to claim 43, at least one of the plurality of cornerpieces / coverpieces includes at least one backrest (31 for example). As to claim 45, at least one of the plurality of cornerpieces / coverpieces includes an attaching means (31 for example) capable of attaching at least one additional element. Bickford teaches applicant's claimed invention as disclosed above, but does not show the panel as having a groove that engages with an internal relief on one of the coverpieces. However, Marx (figures 1-6) teaches of a structural member similar to applicant's invention. Marx employs a panel having grooves (13) that are engaged by internal reliefs (16) located on coverpieces (14, 15). As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ a grooved panel and at least one coverpiece with an internal relief since this arrangement would enhance the connection between the panel and a coverpiece due to the positive engagement created by the relief residing within the groove. This arrangement demonstrates that the knowledge to provide a glass panel with a groove so as to engage a relief on another element as dictated by the personal preference of the user or intended application was known in the art. As to claims 49-50, the prior art teaches applicant's inventive claimed concept

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as structurally disclosed above, but does not specifically state a "method" of manufacturing a shelf, the prior art does show providing a panel, having a coverpiece cover one of the corners by attaching an internal relief located on the coverpiece to a groove located on the panel. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to construct a shelf as prescribed by applicant's method because the normal assembly of the prior art's structure would inherently encompass the steps as set forth.

7. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Santo. Santo teaches applicant's inventive claimed concept as structurally disclosed above, but does not specifically state a "method" of manufacturing a shelf, Santo does show providing a panel, having a coverpiece cover one of the corners by attaching an internal relief located on the coverpiece to a groove located on the panel. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to construct a shelf as prescribed by applicant's method because the normal assembly of Santo's structure would inherently encompass the steps as set forth.

8. Claims 33 & 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marx. Marx teaches applicant's inventive claimed concept as structurally disclosed above, but does not show the coverpieces as being made out of plastic or specifically state a "method" of manufacturing a shelf, Marx does show providing a panel, having a coverpiece cover one of the corners by attaching an internal relief located on the coverpiece to a groove located on the panel, and at least two of the coverpieces being fitted {abutting} one with the other over at least a part of their length and height. Accordingly, it would have been obvious to a person of ordinary skill in



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the art at the time the invention was made to construct a shelf as prescribed by applicant's method because the normal assembly of Marx's structure would inherently encompass the steps as set forth. As to the plastic material, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize different types of materials depending upon the intended application, since it has been held to be within the general skill of a worker in the art to select such a material on the basis of its suitability for the intended use.

***Response to Arguments***

9. Applicant's arguments filed January 27, 2004 have been fully considered but they are not persuasive. As to applicant's argument that the FR'145 [Santo] reference fails to teach "a plurality of coverpieces including a plurality of cornerpieces...on the least one support panel" as recited in Claim 29 [pg. 9 of paper #34], note the following: The Santo reference was not cited in a rejection attributed to claim 29 and therefore this argument is moot.

10. As to applicant's argument that the Marx reference fails to teach "a plurality of coverpieces including a plurality of cornerpieces...on the least one support panel" as recited in Claim 29 [pg. 10 of paper #34], note the following: The Marx reference was not cited in a rejection attributed to claim 29 and therefore this argument is moot.

11. As to applicant's argument that the Bickford reference fails to teach "a plurality of coverpieces including a plurality of cornerpieces...on the least one support panel" as recited in Claim 29 [pg. 10 of paper #34], note the following: The rejection of claim 29 and its dependent claims were based on the combination of Bickford in view of Marx. The examiner has indicated in the body of the rejection where the Bickford reference

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was deficient {groove & relief} and provided an evidence reference showing this feature to be old and well known; as such, it appears that applicant's arguments are directed against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

12. Finally, in response to applicant's argument that independent Claims 30-32 & 49 include subject matter similar to what is recited in Claim 29, note the following: The fact that applicant is basing patentability of independent Claims 30-32, 49 and it's dependent claims on claimed subject matter of a similar scope [in claim 29] and not on the limitations contained with the claims in question appears to be a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references and therefore does not adequately traverse the rejections put forth.

### **Conclusion**

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date

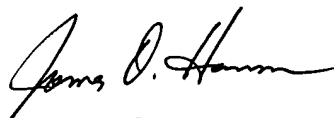
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of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
February 24, 2004